

Atty. Dkt. No. 080542-0157

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Isao MOCHIDA et al.

Title: Heat-Treated Active Carbons for Use in
Denitration, Processes for Producing Same,
Denitration Method Using Same, and
Denitration System Using Same

Appl. No.: 10/081,208

Filing Date: 2/25/2002

Patent No.: 7,465,429

Grant Date: 12/16/2008

Examiner: Stuart L. HENDRICKSON

Art Unit: 1793

Confirmation Number: 4498

**SUPPLEMENTAL REQUEST FOR RECONSIDERATION OF DECISION ON
REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Supplemental to the Request for Reconsideration of the PTO's Determination of PTA upon the grant of the above-identified patent, filed by the Applicants on January 5, 2009, Applicants note that the Federal Circuit has issued a decision in *Wyeth v. Kappos*, **affirming** the district court decision.

In particular, in *Wyeth v. Kappos*, No. 2009-1120 (Jan. 7, 2010), the Federal Circuit determined that "[b]efore the three-year mark, no 'overlap' can transpire between the A delay

and the B delay," and that "[i]f an A delay occurs on one day and a B delay occurs on a different day, those two days do *not* 'overlap' under section 154 (b)(2)" (emphasis added).

Applicants have recalculated PTA for the captioned patent under the court's interpretation of the PTA statute, and have determined that the patent is entitled to 1141 days PTA, as shown on the attached sheet, which shows the relevant delays under 37 CFR §§1.702(a) and (b), and under 37 CFR §§1.703(a) and (b).

The attached sheet details the circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.

(a) Total of non-overlapping PTO delay under §154(b)(1)(A) & (B): 1327 days

(b) Total Applicant delay: 186 days

Final PTA Determination: 1141 days

Applicants therefore respectfully request that the patent be accorded 1141 days PTA.

The patent is not subject to a terminal disclaimer.

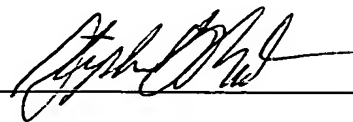
No additional fees are believed to be required. However, if any additional fees are required, the Commissioner is authorized to make appropriate charges to Deposit Account No. 19-0741 to provide exact payment.

Respectfully submitted,

JAN 15 2010

Date _____

By _____



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Docket Number: 080542-0157
 Application Number: 10/081208
 Patent Number: N/A

| | Event Description | Event Date | Days from Filing | PTO Days | Applicant Days |
|-------------|---|------------|------------------|----------|----------------|
| Edit Delete | Application Filing Date | 02/25/2002 | 0 | | |
| | 14 month From Application date | 04/25/2003 | 424 | | |
| Edit Delete | Restriction Requirement | 09/24/2004 | 942 | 518 | |
| Edit Delete | Restriction Requirement Response Received at PTO | 10/22/2004 | 970 | | |
| Edit Delete | Non-Final Office Action | 01/11/2005 | 1,051 | | |
| | 3 Year Period Starts | 02/25/2005 | 1,096 | | |
| | Non-Final Office Action + 3 months | 04/11/2005 | 1,141 | | |
| Edit Delete | Non-Final Office Action Rsp. Rcv'd at PTO | 05/06/2005 | 1,166 | | 25 |
| Edit Delete | Final Office Action | 08/11/2005 | 1,263 | | |
| | Final Office Action + 3 months | 11/11/2005 | 1,355 | | |
| Edit Delete | Request For Continued Examination (including amendment) | 12/12/2005 | 1,386 | | 31 |
| Edit Delete | Request For Continued Examination (including amendment) | 12/12/2005 | 1,386 | | |
| | 3 Year Period Stopped | 12/12/2005 | 1,386 | 290 | |
| Edit Delete | Non-Final Office Action | 02/28/2006 | 1,464 | | |
| | Non-Final Office Action + 3 months | 05/28/2006 | 1,553 | | |
| Edit Delete | Non-Final Office Action Rsp. Rcv'd at PTO | 08/24/2006 | 1,641 | | 88 |
| Edit Delete | Final Office Action | 10/24/2006 | 1,702 | | |
| Edit Delete | Final Office Action Response Received at PTO | 01/23/2007 | 1,793 | | |
| | Final Office Action + 3 months | 01/24/2007 | 1,794 | | |
| Edit Delete | Advisory Action | 02/12/2007 | 1,813 | | |
| Edit Delete | Notice of Appeal Received at PTO | 02/21/2007 | 1,822 | | 28 |
| Edit Delete | Appeal Brief Received at PTO (Non-Compliant) | 04/18/2007 | 1,878 | | |
| Edit Delete | Notice of Non-Compliance | 06/11/2007 | 1,932 | | |
| Edit Delete | Appeal Brief Received at PTO | 06/13/2007 | 1,934 | | |
| Edit Delete | Examiner's Answer Mailed | 09/07/2007 | 2,020 | | |
| Edit Delete | Reply Brief Received at PTO | 11/07/2007 | 2,081 | | |

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|-------------|--|------------|---------|-------|-----|
| Edit Delete | Appeal Decided by Appeal Board; Some Rejections Reversed | 07/23/2008 | 2,340 | 519 | |
| Edit Delete | Notice of Allowance | 08/15/2008 | 2,363 | | |
| Edit Delete | Post-Allowance Document Received at PTO | 09/12/2008 | 2,391 | | |
| Edit Delete | Supplemental Notice of Allowability | 09/25/2008 | 2,404 | | 14 |
| Edit Delete | Issue Fee Paid | 11/14/2008 | 2,454 | | |
| Edit Delete | Patent Grant Date | 12/16/2008 | 2,486 | | |
| | | | Totals: | 1,327 | 186 |
| | | | PTA: | 1,141 | |

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Version: 3.02.05

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IP: 10.14.41.156

Foley & Lardner LLP